



US Army Corps
of Engineers

Detroit District

Joint Public Notice



Applicant: Jeff Beyer

In Reply Refer To: Corps File No. LRE-1993-1710281-S10

Date: February 23, 2011

Expires: March 16, 2011

Proposed Construction of a Dam in Bowman Creek, South Bend, St. Joseph County, Indiana

Applicant: Jeff Beyer, 20700 Chippewa Avenue, South Bend, Indiana 46614

Project Location: The site is located approximately ¼ mile west of the intersection of Linden Road and Chippewa Avenue at Indiana 20700 Chippewa Avenue, South Bend, St. Joseph County, Indiana (Section 26, Township 37 N, Range 2 E).

Federal Authority: The applicant has applied for a Department of the Army permit under Section 404 of the Clean Water.

State Authority: A DA permit, if otherwise warranted, will not be issued on this project until a Section 401 Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM) is on file in this office or it is considered waived. This Public Notice serves as the notice for a Clean Water Act, Section 401 application for water quality certification from the IDEM. IDEM will review this proposal for compliance with the applicable provisions of Section 301, 302, 303, 306 and 307 of the CWA, including the state water quality standards currently set forth at 327 IAC 2. They will consider comments regarding this proposal postmarked by the closing date of this notice. Comments to IDEM should be addressed to: IDEM, Office of Water Quality, 100 N. Senate Ave., MC65-42 WQC 1255, Indianapolis, Indiana 46206-6015. The applicant is responsible for obtaining the certification from IDEM.

Project Description: As shown on the attached plans, the applicant proposes to discharge approximately 37 cubic yards of earthen material in a trapezoidal shaped area 25' wide by 22' long by 2.5' feet deep (1' below the existing stream bed). Discharge approximately 3 cubic yards of riprap on the surface of the dam to protect from bank erosion. Discharge approximately 1.25 cubic yards of riprap in a 22' long by 18" wide by 1' deep area on the upstream side of the dam at the toe. The purpose of the project is to divert water into a man-made pond that is adjacent to Bowman Creek.

AVOIDANCE & MINIMIZATION: The applicant has stated the following concerning avoidance and minimization to Waters of the United States: "The proposed structure, which will feed the man-made pond on the property, has been minimized to limit the impact to Bowman Ditch and will not impact the surrounding wetland." The Corps has not verified the adequacy of the applicant's avoidance and minimization statement at this time.

COMPENSATORY MITIGATION: The applicant has stated the following concerning compensatory mitigation for unavoidable impacts to Waters of the United States:

The applicant has stated that mitigation is not necessary or appropriate for the proposed work because: “There is no mitigation proposed since there is no mitigation needed”

The Corps has not verified the adequacy of this mitigation proposal at this time.

Other Authorizations: The applicant has requested the following governmental authorization:

Indiana Department of Environmental Management – Section 401 Water Quality Certification (2010-074-71-EMP-V)

Indiana Department of Natural Resources – Construction in a Floodway Permit (FW-26039)

Comments: We are publishing this notice in compliance with Title 33 Code of Federal Regulations Parts 320-332 and the Indiana statutes listed above. Comments on the project should be submitted in writing and postmarked or delivered by the expiration date of this public notice. Comments of a positive or negative nature may be submitted. All responses must refer to file number LRE-1993-1710281-S10. We will interpret a lack of response as meaning that there is no objection to the permit application. Comments should be filed with: Charles M. Simon,

Chief, Permit Evaluation Western Branch, Regulatory Office, Detroit District, Corps of Engineers, 477 Michigan Avenue, Detroit, Michigan 48226-2550. Comments may be e-mailed to: james.d.luke@lre02.usace.army.mil, but must include a name and mailing address.

Public Hearing: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Evaluation: The decision whether to issue the Department of the Army permit will be based on evaluation of the probable impact of the proposed activity on the public interest. These decisions will reflect the national concerns for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This activity involves the discharge of dredged or fill material into waters of the United States. Therefore, the U.S. Army Corps of Engineers' evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator of the Federal Environmental Protection Agency, under the authority of Section 404(b)(1) of the Clean Water Act.

Endangered Species: We will review this application for the potential impact on threatened or endangered species pursuant to Section 7 of the Endangered Species Act as amended. We are not aware of the presence of any listed species or critical habitat at or in the vicinity of the proposed worksite. We invite information and/or comments regarding the potential presence of, or impacts to, any listed species or critical habitat.

Cultural Resources: The District Staff has reviewed existing information on historic properties potentially affected by the proposed project, including the National Register of Historic Places. There are no recorded historic properties within the permit area. The proposed work is of such a limited nature and extent that little likelihood exists for the project to impinge upon an unrecorded historic property. The District Engineer invites responses to this Public Notice from federal, state and local agencies, historical and archaeological societies, Indian tribes, and other parties likely to have knowledge of or concerns with historic properties in the area.##

Additional Information: Questions concerning this application may be directed to James Luke at the Corps of Engineers address listed above, or telephone number 313-226-3396.

FOR THE DISTRICT ENGINEER:

Charles M. Simon
Chief, Permit Evaluation Western Branch

File No. LRE-1993-1710281-S10

February 23, 2011

Regulatory Office

NOTICE TO POSTMASTERS:

We request that the above notice be conspicuously and continuously posted for the time period of this notice.